

Appln. No.: 10/767,244
Amendment dated June 12, 2006
Reply to Office Action of March 13, 2006

REMARKS/ARGUMENTS

In the non-final Office Action mailed March 13, 2006, claims 1-12 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-9, 11 and 12 were rejected under 35 U.S.C. 102(e) as being anticipated by Avitall (U.S. Patent No. 5,702,438).

Claim 10 was rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Avitall.

Claims 1-12 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16, claims 1-19, claims 1-21, and claims 27-32, 73, and 77 of U.S. Patent Nos. 6,714,822, 6,442,435, 6,161,047, and 6,795,737, respectively.

Claims 1-12 remain in this application. Claims 13-43 have been canceled without prejudice or disclaimer.

Claim 1 has been amended so that the terms "contracted position" and "expanded position" are consistent with the terms "contract" and "expand" in the claim. Claim 2 has been amended to claim "a series of struts comprising a first strut, a second strut, a third strut and a fourth strut." In view of these amendments, it is respectfully submitted that the rejections under 35 U.S.C. 112, second paragraph, have been rendered moot.

Claim 1 has been amended to claim "an elongate central portion having a longitudinal center of axis" and "the span forming a paddle surface, the paddle surface having a longitudinal center of axis parallel to the longitudinal center of axis of the elongate central portion when the paddle surface is in the expanded position." No such paddle surface is taught in Avitall.

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Conclusion

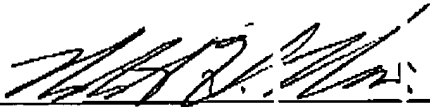
In view of the foregoing, it is respectfully submitted that pending claims 1-12 are in condition for allowance. The Examiner is invited to contact the undersigned at the telephone number provided below, should it be deemed necessary to facilitate prosecution of the application.

Respectfully submitted,

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Dated: June 12, 2006

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